

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**

Docket Number (Optional)

1173-1049PUS5

In re Application of: Brian R. MURPHY et al.

Application No.: 10/722,000-Conf. #6530

Filed: November 25, 2003

For: PRODUCTION OF ATTENUATED RESPIRATORY SYNCYTIAL VIRUS VACCINES FROM
CLONED NUCLEOTIDE SEQUENCES

The Government of the United States of America, as represented by the
 The owner*, Secretary, Department of Health and Human Services, of 100 percent interest in the
 instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the
 instant application which would extend beyond the expiration date of the full statutory term of prior patent No. 6,689,367
 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened
 by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable
 only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted
 on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant
 application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior
 patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent
 later:

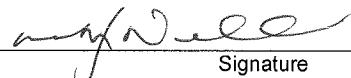
- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information
 and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements
 and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code
 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. The undersigned is an attorney or agent of record. Reg. No. 36,623



Signature

May 29, 2009

Date

Mark J. Nuell

Typed or printed name

(858) 356-5959

Telephone Number

- Terminal disclaimer fee under 37 CFR 1.20(d) is included.

*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
 Form PTO/SB/96 may be used for making this certification. See MPEP § 324.